

REMARKS

Claims 1–20 are pending before entry of this amendment. Claims 1–20 stand rejected. Claims 7 and 18–20 are canceled. Claims 21–25 are added. After entry of this amendment, claims 1–6, 8–17, and 21–25 are pending. Independent claims 1 and 12 are amended.

JP 09056623

Claims 1–10, 12–16, and 18–20 stand rejected under 35 U.S.C. §102(b) as assertedly anticipated by JP 09056623. “Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick*, 221 USPQ 481, 485 (Fed. Cir. 1984) (emphasis added). *See also* MPEP § 2131. “Where there are differences between the referenced disclosure and the claim, a rejection under § 102 is improper.” *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 780 (Fed. Cir. 1985).

JP ‘623 does not disclose each and every element of the claimed invention, arranged as in the amended claims. Because there are differences between JP ‘623 and the claim language, applicant respectfully requests withdrawal of the rejection under § 102.

Independent claims 1 and 12 of the present application, as amended, recite that fastener mating surfaces comprise “a plurality of raised ridges.” The Office Action at page 3 asserts that in JP ‘623, “the bracket 15 includes a fastener mating surface 21 including on [sic] raised ridge (at front edge).” As illustrated in JP ‘623 Figures 4, 5, 11, and 17, element 21 can be considered to have only a single raised ridge. Claim 1, as amended, requires a plurality of raised ridges on the fastener mating surface, as supported at least in Figure 6 and paragraph 0021 of the present application. One exemplary function of the plurality of raised ridges is to enable the user to situate the cover in a desired position, depending on which ridge is used to engage the clip, as described in paragraph 0022. The device illustrated and described in JP ‘623 does not include a plurality of raised ridges.

Independent claims 1 and 12, as amended, also recite the panel is attachable to the bracket “in a selected one of a plurality of positions.” The description in JP ‘623 does not disclose that the panel is attachable in a selected one of a plurality of positions. To the contrary,

the outer cover 23/24 is attachable to the inner lid 15 only in a single position. The hook sections 28 of the cover 23/24 are engageable with the receptacle sections 18 of the lid 15 in only a single position, providing a hinge effect. The stop pawls 30 of the cover 23/24 are engageable with the stop receptacle pawls 21 of the lid 15 in only a single position. This is designed so that the apparatus of JP '623 is watertight. See, e.g., JP '623 ¶ 0001. The present invention, as claimed, is capable of positioning the panel at a distance spaced from the bracket without being watertight or airtight.

Independent claim 18 is canceled. New independent claim 21 recites "wherein the panel is attachable to the bracket in a selected one of a plurality of positions, each position defining a different distance between the panel and the bracket." As discussed in paragraph 0022 of the present application, the panel is pushed farther inwards towards the bracket over each successive raised ridge until a desired position is reached. Also as illustrated at least in Figures 6 and 7a, engagement of the clip with selected ridges provides engagement at one of a plurality of positions, some of which result in the panel being spaced apart from the bracket in different degrees.

As discussed above, JP '623 does not disclose that a panel is attachable to a bracket in a selected one of a plurality of positions.

Because JP '623 does not disclose at least one element of each of the amended or new independent claims 1, 12, and 21, rejection of these claims under 35 U.S.C. § 102 as anticipated by JP '623 is improper. Applicant respectfully requests withdrawal of this rejection based on JP '623.

U.S. Pat. No. 3,028,603 to Rodman

Claims 1, 3-7, 9, and 14 stand rejected under 35 U.S.C. § 102 (b) as assertedly anticipated by U.S. Pat. No. 3,028,603 to Rodman. As identified in the discussion of the response to the Office Action dated September 9, 2005, Rodman '603 does not disclose all of the elements of independent claim 1 of the present application. Moreover, claim 1 as presently amended also recites "a plurality of fastener mating surfaces, each fastener mating surface comprising a plurality of raised ridges."

Rodman '603 does not disclose a plurality of fastener mating surfaces nor does it disclose a plurality of raised ridges. The Office Action asserts that Rodman '603 element 33 corresponds to a fastener mating surface. There is only a single flange 33 of Rodman '603 that extends along substantially the entire front the tub, as illustrated in Rodman '603 Figures 1 and 3, not a plurality of mating surfaces, as claimed in claim 1 of the present application. Providing a plurality of mating surfaces can, for example, reduce the amount of necessary fabrication material.

Moreover, Rodman '603 does not disclose mating surfaces with a plurality of raised ridges, as claimed in amended claim 1 of the present application. The Office Action identifies Rodman '603 element 33' as a raised ridge. As illustrated in Rodman '603 Figures 1 and 3, only a single element 33' is provided to engage the corresponding element 25'.

Claim 1, as amended, also recites that the panel is "attachable to the bracket in a selected one of a plurality of positions." Rodman '603 does not disclose that the apron 20 is attachable in a selected one of a plurality of positions. The apron 20 of Rodman '603 includes pins 22 to enter holes 22' in flange 16. Rodman '603 Fig. 2; Col. 2 lines 27–31. The pins 22 of the apron 20 can only engage the corresponding holes 22' in a single position. There are no other positions that the apron 20 can engage the flange 16.

The Office Action asserts that Rodman '603 discloses the claimed "bracket affixable to the tub skirt," by "a bracket 34 affixable to a tub skirt (member 15 and 28)." On the contrary, members 15 and 28 do not make up a tub skirt. Bracket 28 is attached to the floor, and is not attached directly or indirectly to the tub. Rodman '603 Col. 2, lines 44–47. Downturned flange 15 is a short flange along the rim of the tub. Col. 2, lines 17–19, Figs. 1, 2. Bracket 34 is not attached, directly or indirectly to downturned flange 15. Downturned flange 15 and bracket 28 are not attached to each other directly or indirectly. These elements do not correspond to a tub skirt to which a bracket is attachable, as claimed in the present application and as arranged in the claims. In short, there is no bracket that is affixable to the tub skirt, as recited in claim 1 of the present application. Rodman '603 has no tub skirt to which a bracket is affixable.

Because Rodman '603 does not disclose at least one element of independent claim 1, as amended, rejection of this claim under 35 U.S.C. § 102 as anticipated by Rodman '603 is improper. Applicant respectfully requests withdrawal of this rejection based on Rodman '603.

Although the specific list of claims rejected under 35 U.S.C. § 102 (b) as assertedly anticipated by Rodman '603 does not identify independent claim 12 as rejected, the text of the Office Action on page 4 discusses claim 12 in relation to Rodman '603. The Office Action asserts that members 15 and 32 correspond to the claimed "face portion defining one or more access openings." Rodman '603 identifies element 32 as a leg 32 of the bracket 28, discussed above. Col. 2, lines 44–52. This combination of elements 15 and 32 is not a face portion of a tub skirt, as claimed. As discussed above, elements 15 and 28/32 are not a tub skirt, and they are also not a face portion of a tub skirt, at least for the reasons discussed above.

Moreover, claim 12, as amended, requires "at least two clips" and "mating surfaces comprising a plurality of raised ridges." As discussed above, Rodman '603 does not disclose a plurality of raised ridges. Also, there is only a single element 25', which is asserted by the Office Action as corresponding to the claimed clips. Like with the flange 33 and element 33' discussed above that interacts with the element 25', there is only a single element 25' that extends across the front of the tub. See Rodman '603 Figures 1 and 3.

Rejection of claim 12 in light of Rodman' 603 was not clearly identified in the Office Action, although application of Rodman '603 to claim 12 was discussed. Nonetheless, Rodman '603 does not describe each and every element of independent claim 12, as amended. Rejection of claim 12 as anticipated by Rodman '603, therefore, is inappropriate. Applicants respectfully request that any rejection of claim 12 in light of Rodman '603 be withdrawn.

Rodman '603 also does not disclose the limitations of added independent claim 21, including that the "panel is attachable to the bracket in a selected one of a plurality of positions," as discussed above.

Dependent Claims

The dependent claims are believed allowable as depending from an allowable independent claim, as discussed above, as well as being allowable on their own merits. For

example, claim 8 requires that the mating surfaces are tapered. None of the cited references describe or illustrate that the mating surfaces are tapered. As another example, claim 9 requires that the bracket is a rectangular frame. Bracket 34 in Rodman '603 is not a frame.

It is believed that there is no fee associated with the filing and consideration of this amendment other than that accompanying the amendment. Should the Commissioner decide that any fee is due, the Commissioner is hereby authorized to charge any and all fees incurred as a result of entering this amendment and response to deposit account number 03-0172.

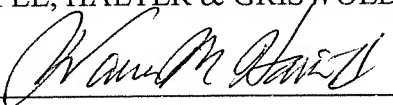
Conclusion

Claims 1-6, 8-17, and 21-24 are currently pending. In view of the above remarks, it is submitted that claims 1-6, 8-17, and 21-24 are all in condition for allowance. Prompt notice of allowance of all pending claims is respectfully requested.

Respectfully submitted,

CALFEE, HALTER & GRISWOLD LLP

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By: 

Warren M. Haines II
Reg. No. 40,632
Telephone (216) 622-8477